IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 30225 of 2007(W)

PETITIONER:

BHASI NAIR, KOIKKALETHU,
VENMONY KIZHAKKUM MURI,
VENMONY VILLAGE.

BY ADV. SRI.K.JAYAKUMAR
SRI.P.B.KRISHNAN

RESPONDENTS:
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1. THE STATE OF KERALA, REPRESENTED BY
THE ADDITIONAL GOVERNMENT PLEADER,
MAVELIKKARA.

2. THE TAHSILDAR, TALUK OFFICE,
KANAYANNUR TALUK.

BY GOVERNMENT PLEADER SHRI BASANT BALAJI

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. PADMANABHAN NAIR, J.

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W.P(C) NO. 30225 OF 2007

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Dated this the 15th day of October, 2007

J U D G M E N T

Claimant in L.A.R. No.155 of 1999 on the file of the Sub Court, Mavelikkara is the petitioner. An extent of 2.0367 Hectares of land owned by the petitioner and his wife were acquired for a public purpose. Land Acquisition Officer has awarded an amount of Rs.2,45,20,482/- as compensation. The land value was fixed at Rs.86,485/- per Are. There was a reference to the Sub Court under Section 18 of the Land Acquisition Act which was numbered as L.A.R. No.155 of 1999. Sub Court allowed the reference and enhanced the land value along with other statutory benefits. Respondent State has deposited a sum of Rs.2,88,03,952/- before the Sub Court, Mavelikkara. In the meanwhile State filed L.A.A. No.465 of 2006 with a petition to condone delay in filing the appeal. Delay was condoned and appeal is admitted and pending. But no interim order of stay was passed by this Court in the appeal. When the petitioner filed a cheque application, Government Pleader raised objection to the effect that an

appeal as L.A.A. No.465 of 2006 is pending and hence the petitioner may be directed to furnish security. The learned Sub Judge dismissed the cheque application on the ground that no security was furnished. Thereafter petitioner offered security in the form of immovable property. Again an objection was raised to the effect that the value of the property offered as security will not be sufficient to cover the decree debt. Petitioner filed E.A. No.404 of 2007 to issue a court certificate. Learned Sub Judge dismissed that application stating that the petitioner can directly approach the concerned authority, obtain the certificate and produce the same before the court. In the meanwhile the petitioner filed a petition before the Tahsildar, Taluk Office, Kanayannur, to issue a valuation certificate. The Tahsildar dismissed that application holding that a valuation certificate can be issued only on production of court certificate.

2. Dismissal of the cheque application on the mere ground that an appeal is pending before this Court is illegal. The court below failed to exercise the jurisdiction vested in it. Petitioner produced a copy of the application filed by him

for court certificate. In that application he has stated that for getting valuation certificate, a court certificate is necessary. In spite of that statement the court below dismissed that application. The reasons stated by the Tahsildar for dismissing the application for valuation certificate is also illegal. The petitioner has applied for valuation certificate of his own property. He is entitled to get it. The action of the Tahsildar as well as the Sub Court is illegal and liable to be interfered with under Article 227 of the Constitution of India.

In the result, Writ Petition is disposed of in the following manner: Exhibit P1 order dated 30.6.2007 passed by the Sub Court, Mavelikkara, dismissing the cheque application in L.A.R. No.155 of 1999, Exhibit P3 order dated 19.9.2007 passed by the Tahsildar refusing to issue valuation certificate and Exhibit P5 order dated 6.9.2007 passed by the Sub Court, Mavelikkara dismissing E.A. No.404 of 2007 in L.A.R. No.155 of 1999 are hereby quashed. The petitioner is allowed to withdraw one half of the amount deposited by the judgment debtor without furnishing security. He need furnish security for the remaining one half alone. There will be a direction to

the Sub Judge, Mavelikkara to reconsider E.A. No.404 of 2007 and pass orders in accordance with law. There will be a further direction to the second respondent, Tahsildar, Taluk Office, Kanayannur Taluk, to issue a valuation certificate in respect of 15 cents of property comprised in R.S. No.212/1, Block-1, Maradu Village, offered as security by the petitioner, within one month from the date of receipt of a copy of this judgment. On receipt of the valuation certificate, the Sub Judge, Mavelikkara shall release the remaining one half also.

K. PADMANABHAN NAIR, JUDGE.

vsv

K. PADMANABHAN NAIR, J.

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J U D G M E N T

15TH OCTOBER, 2007